



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1223]

Certain Shingled Solar Modules, Components Thereof, and Methods for Manufacturing the Same; Notice of a Final Determination Granting a Joint Motion to Terminate the Investigation Based on Settlement; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to grant a joint motion to terminate the above-captioned investigation in its entirety based on settlement. The investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On October 21, 2020, the Commission instituted this investigation based on a complaint filed by The Solaria Corporation ("Solaria") of Fremont, California. 85 FR 67010-11 (Oct. 21, 2020). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain shingled solar modules, components thereof, and methods for manufacturing the same by reason of infringement of certain claims of U.S. Patent Nos. 10,522,707 ("the '707 patent"), 10,763,388 ("the '388 patent"), and 10,651,333 ("the '333 patent"). *Id.* at 67011. The complaint further alleges that a domestic industry ("DI") exists. *Id.*

The notice of investigation named Canadian Solar Inc. of Guelph, Ontario, Canada and Canadian Solar (USA) Inc. of Walnut Creek, California (collectively, “Canadian Solar”) as the respondents. *Id.* The Office of Unfair Import Investigations is not named as a party. *Id.*

On July 15, 2021, the Commission terminated the investigation as to the ’707 patent based on Solaria’s withdrawal of the allegations in the complaint as to that patent. Order No. 9 (June 28, 2021), *unreviewed by* Comm’n Notice (July 15, 2021). On October 13, 2021, the Commission terminated the investigation as to certain claims of the ’333 patent and the ’388 patent based on Solaria’s withdrawal of the allegations in the complaint as to those claims. Order No. 13 (Sept. 14, 2021), *unreviewed by* Comm’n Notice (Oct. 13, 2021).

On October 22, 2021, the presiding chief administrative law judge (“CALJ”) issued a final initial determination (“FID”) on violation, finding a violation of section 337 with respect to the ’388 and ’333 patents. The FID also included the CALJ’s recommended determination on remedy and bonding.

On November 5, 2021, Canadian Solar filed a petition for review of certain aspects of the FID on violation. On November 15, 2021, Solaria filed a response to Canadian Solar’s petition.

On November 22, 2021, Canadian Solar filed a notice of supplemental authority to inform the Commission that a claim construction order issued in a related district court litigation involving the same parties and patents at issue in this investigation.

On November 23, 2021, Canadian Solar filed a submission on the public interest pursuant to Commission Rule 210.50(a)(4) (19 CFR 210.50(a)(4)). The Commission did not receive a public interest submission from Solaria. The Commission also did not receive any submissions on the public interest from members of the public in response to the Commission’s *Federal Register* notice. 86 FR 62845-46 (Nov. 12, 2021).

On February 4, 2022, the Commission determined to review the FID in part and to remand the FID in part to the CALJ to address, in the first instance, Canadian Solar’s on-sale bar defenses as to the asserted claims of the ’333 patent. 87 FR 7867-70 (Feb. 10, 2022).

On February 18, 2022, Solaria and Canadian Solar each filed initial briefs on the issues under review, as well as the issues of remedy, the public interest, and bonding. On March 4, 2022, Solaria and Canadian Solar each filed reply briefs.

On March 4, 2022, the CALJ issued a remand initial determination (“RID”) finding that Canadian Solar failed to show, by clear and convincing evidence, that the asserted claims of the ’333 patent are anticipated under the on-sale bar of 35 U.S.C. 102.

On March 16, 2022, Canadian Solar filed a petition for review of the RID. On March 23, 2022, Solaria filed a response to Canadian Solar’s petition. On April 20, 2022, the Commission determined to extend the deadline for determining whether to review the RID until June 6, 2022.

On June 3, 2022, the parties filed a joint motion to terminate the investigation based on settlement.

The Commission has determined to grant the joint motion to terminate the investigation. The Commission finds that, consistent with Commission Rule 210.21(b)(1) (19 CFR 210.21(b)(1)), the Moving Parties attached a copy of the signed settlement and license agreement between the parties (the “Settlement Agreement”) as Exhibit A, with a redacted version of the Settlement Agreement attached as Exhibit B. The Moving Parties submit that the Settlement Agreement resolves all of the issues in dispute in this Investigation. Mot. at 1-2. In further compliance with Commission Rule 210.21(b)(1), the Motion contains a statement that “there are no other agreements, written or oral, express or implied, between the Private Parties concerning the subject matter of this Investigation.” Mot. at 2. The Commission finds that termination of this investigation by settlement will not adversely affect the public interest. *See* 19 CFR 210.50(b)(2).

This investigation is hereby terminated.

The Commission vote for this determination took place on June 6, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: June 6, 2022.

Lisa Barton,
Secretary to the Commission.

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